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forming the flocked surface from a uniform parallel orientation into random groups of fibers with angular and directional orientations that vary from one group to the other; and thereafter drying and printing the substrate with the fibers in said reoriented position.

REMARKS

This is in response to the Office Action mailed November 7, 2001.

Claim 21 has been amended. Claims 1-12 and 14-21 stand rejected, and claim 13 stands as being objected to as being dependent upon a rejected base claim, containing allowable subject matter. Claims 1-21 remain for examination.

Rejection of claims 3 and 4 under 35 U.S.C. §101 as claiming the same invention of that of claims 1 and 2 of prior U.S. Patent No. 6,247,215 B1.

Reconsideration is respectfully requested of the rejection of the above claims under 35 U.S.C. §101 as claiming the same invention of that of claims 1 and 2 of Applicants' U.S. Patent No. 6,247,215 B1 (hereinafter "the '215 patent"). Claims 3 and 4 of the instant application do not recite identical subject matter as claims 1 and 2 of the '215 patent, and, therefore, the rejection for double patenting under 35 U.S.C. §101 should be withdrawn. As stated in MPEP §804 II.A., a reliable test for double patenting under 35 U.S.C. §101 is whether there are embodiments of the invention that fall within the scope of the claims of the application, but not the claims of the prior patent. If there are such embodiments, then identical subject matter is not defined by the claims of the patent vis-a-vis the claims of the application and statutory double patenting does not exist.

There exist at least three substantial differences between claims 1 and 2 of the '215 patent and claims 3 and 4 of the present application. These differences result in the claims reciting non-identical subject matter, such that there are embodiments of the invention which fall within the scope of one set of claims and not the other (i.e. either fall within the scope of claims 3 and/or 4 of the present application but not claims 1 and/or 2 of Applicants prior patent, or vice versa).

First, claims 1 and 2 of the '215 patent recite a method of forming a flocked pile fabric having flocking formed of fibers of substantially uniform length. By contrast, claims 3 and 4 of the instant application do not include such a recitation. Secondly, claims 1 and 2 of the '215

patent recite a method of forming a multicolored flocked pile fabric. Claims 3 and 4 of the present application do not include this recitation. Thirdly, claims 3 and 4 of the present application recite that the reorienting step involves reorienting the fibers of the fabric with the liquid with which the greige goods are washed in the washing step. Claims 1 and 2 of the '215 patent do not include such a recitation.

In view of the above differences, claims 3 and 4 of the present application do not claim the "same invention" by reciting identical subject matter as claims 1 and 2 of the '215, and, accordingly, Applicants respectfully request that the double patenting rejection of claims 3 and 4 be withdrawn.

Rejection of claim 21 under 35 U.S.C. §112, ¶1 and 2.

The Patent Office has rejected claim 21 under 35 U.S.C. §112, ¶1, as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Claim 21 was also rejected under 35 U.S.C. §112, ¶2, as being indefinite for failure to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, the Patent Office objects to the term "uncompressed" as not being explicitly taught in Applicants' specification and as being indefinite because the scope of the term is asserted to be unclear.

The Applicants believe the scope and meaning of the term "uncompressed" as utilized in claim 21 is clear and definite in the context of the description of the recited method in Applicants' specification. The Applicants also reassert their position that one of ordinary skill in the art would be readily aware that Applicants' disclosed fabric washing procedures inherently involve washing the fabrics in an essentially uncompressed state. The present rejections are thus believed to be improper.

Nevertheless, solely for the purpose of expediting the patent application process. Applicants have amended claim 21 as indicated to obviate the objection to the term "uncompressed." Specifically, claim 21 has been amended to remove the term "uncompressed" objected to by the Patent Office and to recite instead that the claimed method includes a step of processing greige goods to randomly reorient the fibers forming the flocked surface under

conditions selected to minimize creasing of the fabric. This recitation related to conditions selected to minimize creasing is explicitly and specifically supported in Applicants' specification on, for example, page 6 (e.g. see page 6, lines 13-14 and 18-20). Moreover, the recitation that the method involves processing greige goods to randomly reorient the fibers forming the flocked surface under conditions selected to minimize creasing of the fabric also clearly distinguishes over the prior art that has been made of record by the Patent Office. Accordingly, reconsideration of the rejection of claim 21 on the present grounds is respectfully requested.

In addition, while no longer germane to the rejection of claim 21 in view of the Applicants' amendments, the Applicants wish to correct what Applicants believe are certain mischaracterizations of conventional practice in the fabric arts made by the Patent Office in the "Response to Arguments" section of the Office Action. Specifically, the Office Action asserts that both Beck and Jet-Dyeing Machine processes inherently involve washing fabric in "rope" form, wherein the fabric is folded upon itself in a cross direction to form the "rope." The Patent Office then further asserts that Applicants' disclosed washing process would not inherently include washing in an "uncompressed" state in view of the fact that the fabric would be inherently compressed, since it would be understood by those of ordinary skill in the art to be washed in a "rope" form. Applicants agree that the processing of certain non-pile fabrics (e.g. woven or knit, non-flocked fabrics) in Beck and/or Jet-Dyeing Machines in rope form is a known practice in the art. However, the washing/dyeing of flocked pile fabrics with Beck and Jet-Dyeing Machines, especially where creasing of the fabric is desired to be minimized, would not be expected by those skilled in the art to occur with the fabric in "rope" form, as asserted by the Patent Office in its Response to Arguments. Rather, one skilled in the art would expect that such a washing step would be performed with the fabric in an open width state.

Rejection of claims 1, 2, 5, 6, 9, 14 and 17 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,922,404 to Priester, Jr. (hereinafter "Priester"), in view of U.S. Patent No. 4,895,748 to Squires (hereinafter "Squires")

Reconsideration is respectfully requested of the rejection of claims 1, 2, 5, 6, 9, 14 and 17 under 35 U.S.C. §103(a) as being unpatentable over Priester in view of Squires. The Patent Office asserts that Priester discloses a pile fabric produced by a process comprising: (a) forming

a flocked fabric, (b) dying/wetting-out the fabric in a Beck or other dying machine, (c) removing the wetted fabric from the dying machine, (d) forming the wetted fabric into a crumpled ball-shaped mass, (e) squeezing the crumpled fabric to remove excess liquid therefrom, and (f) drying the fabric. The Patent Office further asserts that Priester's drying step would inherently meet Applicants' limitation of "heat setting." The Patent Office goes on to assert that Priester thus teaches the limitations of each of the claims rejected on the present grounds with the exception of the fabric being printed after drying. The Patent Office then asserts that the Squires reference exemplifies that it was known in the art to print flocked fabrics (including textured flocked fabrics) and, therefore, that it would have been obvious in view of Squires to print the Priester fabric in order to produce a fabric with a "desired aesthetic look for a specific end."

The Applicants respectfully disagree. The Applicants believe that the present rejection under 35 U.S.C. §103(a) over Priester in view of Squires cannot stand for at least the following two reasons, which will be explained in more detail below: (1) those of ordinary skill would not be motivated to print the Priester fabric according to the teachings of Squires because the Squires printing method would substantially destroy any surface patterning of the pile, the production of which patterning is the primary purpose of the Priester invention; and (2) the primary Priester reference, contrary to the assertions of the Patent Office, does not teach all of the limitations, except for printing, of the claims rejected on the present grounds.

First, Squires cannot support the assertion of the Patent Office that it would have been obvious to print the textured pile fabric of Priester because the transfer printing method disclosed in Squires would obliterate the textured pile appearance of the Priester fabric, the production of which is the main object of the Priester method. Specifically, Priester discloses a method for forming a fabric having a randomly and permanently textured pile surface characterized by random and permanent reorientation of at least a substantial portion of the pile fibers of the surface (see e.g., column 5, lines 25-36). In order to achieve such an effect, it is essential that the method of Priester result in different portions of the pile surfaces containing pile fibers extending away from the substrate at different angles and to different degrees. Moreover, Priester also teaches that it is important and desirable, in general, for the fabric produced according to his method to be characterized by pile having substantial loft (see e.g., column 5, line 60-column 6, line 6).

Squires teaches a method of printing flocked fabrics utilizing a heated, pressurized paper transfer printing technique. Importantly, the printing method taught by Squires is disclosed as resulting in a complete flattening out of the flocked fibers to form a smooth, untextured, permanently flattened surface (see e.g., column 4, lines 11-12, and 16-21). In fact, such a flattening and ironing-out of the flock surface is disclosed as being an important and desirable feature of the Squires printing process (see, e.g., column 5, lines 1-7 and 25-32). Accordingly, those of ordinary skill in the art would find absolutely no motivation from Squires to print the Priester fabrics. A skilled artisan desiring a randomly textured pile fabric as produced according to the method of Priester would not look to Squires because the printing method taught in Squires would completely flatten the pile and destroy the textured appearance of the pile surface of the Priester fabric.

Moreover, even should one of ordinary skill in the art actually attempt to print the Priester fabric according to the method taught in Squires, despite the fundamental incompatibility of the two disclosed methods as discussed above, the resulting printed fabric could not anticipate any of the claims rejected on the present grounds. As mentioned above, should the Priester fabric be subjected to the printing method of Squires, the pile fibers of the fabric would necessarily be completely flattened and crushed onto the surface of the substrate. Thus, the resulting method (i.e. the combination of the methods disclosed in Priester and Squires) would not satisfy the recitation in Applicants independent claims 1 and 14 of a method of forming a printed flocked pile fabric having a substrate with flocking formed of fibers extending from the substrate.

Secondly, as mentioned above, the present rejection also cannot stand because Priester does not teach or suggest all, with the exception of printing, of the limitations of the presently rejected claims as asserted by the Patent Office. With regard to independent claim 1, Priester nowhere discloses or suggests washing greige goods under conditions sufficient to enable a liquid to which the greige goods are exposed to reorient fibers forming a flocked surface of the greige goods, and reorienting the fibers with the liquid from an essentially uniform parallel orientation into random groups of fibers having angular or directional orientations that vary from one group to another, as recited in independent claim 1. Specifically, as correctly pointed out by the Patent Office, the Priester method for forming a randomly crushed pile fabric comprises a

step of dying or wetting the fabric in a Beck or other dying machine, followed by the steps of removing the wetted fabric from the machine and balling up and crushing the fabric in a hydraulic extraction apparatus **28** (see Fig. 1 of Priester) in order to crush and reorient the pile.

Priester continuously emphasizes that it is the step of compressing and squeezing of the crumpled ball-shaped mass of fabric in the extractor that effects the random crushing of the pile (see e.g., column 1, lines 57-64; column 1, line 64-column 2, line 2; column 3, lines 2-7, "In the hydraulic extractor **28**, the ball-like mass is subjected to a high pressure squeezing action to express liquid therefrom and to cause the fibrous particles to be randomly and permanently bent and crushed," column 5, lines 2-7, "The dyed (or at least fully wetted) fabric is then formed into a crumpled mass and placed into hydraulic extractor apparatus **28** where the mass can be squeezed to express liquid therefrom and to thereby randomly and permanently crush the pile," column 5, lines 23-27; column 5, lines 31-35, "The important consideration is to provide sufficient pressure to achieve random and permanent re-orientation (sic) of at least a substantial portion of the pile fibers to achieve a permanent crushed effect;" column 5, lines 37-39, "...the fabric is subjected to the squeezing operation shortly after removal from the dye beck...;" column 5, lines 60-67; and claim 1, subparagraph (c); (emphasis added in all quotations)).

Accordingly, it is the crushing and squeezing step of the Priester method, which occurs in the hydraulic extractor and not the dying/wetting of the fabric in the dye beck **26** that produces the crushed pile effect characteristic of the Priester method. Nowhere does Priester disclose or suggest that the fabrics are ever exposed to washing conditions, i.e. when in a dying/wetting apparatus (Beck **26**), sufficient to enable a liquid to which the fabrics are exposed to reorient fibers forming a flocked surface, nor that such liquid reorients the fibers to form random groups of fibers having angular and directional orientations that vary from one group to another, as recited in the Applicants' claim 1. It is only after removal from the dye beck, and thus after any step that can be analogized to a "washing" step, that Priester discloses that the pile is randomly reoriented, namely in the hydraulic crushing apparatus **28** (see e.g., column 5, lines 2-7 and 36-38).

Regarding independent claim 14, nowhere does Priester disclose or suggest a method including steps of washing greige goods in a wash chamber under conditions sufficient to

reorient fibers forming a flocked surface of the greige goods, reorienting the fibers to form random groups of fibers having angular and directional orientations that vary from one group to another, and thereafter removing the washed greige goods having the random groups of fibers from the wash chamber, as recited in claim 14. As discussed in detail above, the Priester method, by contrast, teaches random reorientation of fibers forming a pile surface during a step of balling-up, crumpling, and squeezing of a fabric in a hydraulic extractor subsequent to wetting and/or dyeing of the fabric in a dye beck. Nowhere is it disclosed or suggested in Priester that the greige goods undergo washing in a wash chamber under conditions sufficient to reorient fibers forming a flocked surface of the greige goods or that reorientation of the fibers to form random groups of fibers having angular and directional orientations that vary from one group to another occurs before removal of the washed greige goods from the wash chamber, as recited in independent claim 14.

For the reasons stated above, it is believed that the rejection of independent claims 1 and 14 as being unpatentable over Priester in view of Squires has been overcome, and reconsideration is respectfully requested. Claims 2, 5, 6, and 9 each depend from independent claim 1, and claim 17 depends from independent claim 14. These claims are believed to patentably distinguish the combination of Priester and Squires for at least the reasons stated above with regard to the independent claims from which they depend. Therefore, reconsideration of the rejection of these claims on the present grounds is also respectfully requested.

The Applicants also point out that, regarding dependent claim 2, that the assertion by the Patent Office that the hot air drying step disclosed by Priester would inherently meet Applicants' limitation of "heat setting" is not accurate. In fact, what Priester discloses is simply a conventional hot air drying process and does not comprise "heat setting" as understood by those skilled in the art and as explained in Applicants' specification.

Rejection of claims 7, 8, 15, 16, and 20 under 35 U.S.C. §103(a) as being unpatentable over the cited Priester and Squires patents.

Reconsideration is respectfully requested of the rejection of the above claims under 35 U.S.C. §103(a) as being unpatentable over Priester in view of Squires. The Patent Office asserts

that the rejection over Priester in view of Squires as applied to independent claims 1 and 14 also applies to the presently rejected claims, and that the limitations that greige goods are washed in tubular form and opened from the tubular form before drying are inherent in the disclosure of Priester. Specifically, the Patent Office asserts that Priester teaches dying/wetting of fabrics in a Beck dying machine, and that it is conventional for such machines to treat fabric “ropes,” as mentioned previously. The Patent Office points out that the fabric “ropes” are made by basting fabric ends together to form a continuous loop/tube of fabric.

Regarding independent claim 20, the arguments presented in the section above regarding the lack of motivation to print the Priester fabric with the Squires printing method applies equally to independent claim 20, which also recites a method for forming a printed flocked pile fabric having a substrate with flocking formed of fibers extending from the substrate.

Moreover, nowhere does Priester explicitly or inherently teach or suggest steps of forming greige goods into an elongated tubular shape and washing the tubular greige goods, as recited in independent claim 20. While the Applicants agree that it is conventional to form certain types of fabrics into fabric “ropes” prior to dying the fabrics in Beck or jet-dying machines, as pointed out by the Patent Office (although not, conventionally, pile fabrics, such as those disclosed by Priester), this fact is not material to the present rejection. As correctly pointed out by the Patent Office, fabric “ropes” are formed by basting fabric ends together to form a continuous loop (see Office Action page 6, emphasis added). However, the formation of such a continuous loop by basting fabric ends together does not comprise forming greige goods into an elongated tubular shape, as recited in independent claim 20.

The formation of “elongated tubular shape[d]” fabrics as recited in claim 20 is described on page 5 of the Applicants’ specification as meaning forming fabric/griege goods into tubes by tacking or basting stitching along the length of the fabric. In other words, the elongated tubular shapes formed according to the method of claim 20 comprise, as described in the above-mentioned section of Applicants’ specification, tubes of fabric formed by tacking the selvages or edges of the fabrics together, and not the fabric ends as occurs when forming a conventional fabric “rope.” The elongated tubular shape resulting from tacking the selvages/edges of the fabric together along the length of the fabric would typically be characterized by a length substantially exceeding the diameter of the tube (which diameter is proportional to the width of

the fabric). In stark contrast, a loop "tube" formed by basting fabric ends together as occurs in the formation of fabric "ropes" would be characterized by a squat tube shape having a relatively large diameter (which is proportional to the overall length of the fabric used for forming the "rope") and a relatively small "length" (i.e. the height of the cylinder comprising the loop, which is essentially equal to the width of the fabric). Accordingly, the formation of fabric "ropes," as is known in the art, does not comprise forming greige goods into an elongated tubular shape, as recited in claim 20.

For the above-stated reasons, it is believed that the rejection of independent claim 20 on the present grounds has been overcome, and reconsideration is respectfully requested. Claims 7 and 8 each depend from independent claim 1, and claims 15 and 16 each depend from independent claim 14. It is believed that these dependent claims also patentably distinguish the combination of Priester and Squires for at least the reasons stated above with regard to the independent claims from which they depend. Therefore, reconsideration of the rejection of these claims on the present grounds is also respectfully requested.

Rejection of claims 10-12, 18 and 19 under 35 U.S.C. §103(a) as being unpatentable over the cited Priester and Squires patents.

Reconsideration is respectfully requested of the rejection of the above claims under 35 U.S.C. §103(a) as being unpatentable over Priester in view of Squires. The Patent Office, to support the present rejection, has given Official Notice that greige goods are conventionally washed according to conditions recited in certain of Applicants rejected claims, as part of the finishing process.

The Applicants note that claims 10-12 depend from and include all of the limitations of independent claim 1 and that claims 18 and 19 depend from and include all of the limitations of independent claim 14. Since it is believed the remarks above overcome the rejection of these independent claims, claims 10-12, 18, and 19 which depend from these claims also must patentably distinguish the combination of Priester and Squires for at least the same reasons. Accordingly, reconsideration of the rejection of these claims on the present grounds is respectfully requested.

Regarding the Official Notice given by the Patent Office that greige goods are conventionally washed as part of the finishing process, the Applicants point out that the washing steps recited in the claims at issue occur prior to the step of printing the greige goods to form a printed flocked pile fabric. The Applicants do not believe that it was "conventional" as of the earliest filing date to which Applicants' claims are entitled priority to wash flocked pile fabrics/greige goods that are to be subsequently printed, as recited in the claims subject to the present grounds of rejection. Should the Patent Office disagree on this point, the Applicants kindly request that the Patent Office cite a reference in support of its position that such a washing step is conventional (see MPEP §2144.03). Alternatively, should the Official Notice be based on facts within the personal knowledge of the Examiner, the Applicants respectfully request that such facts be supported by an affidavit from the Examiner (see MPEP §2144.03) in the next Office Action.

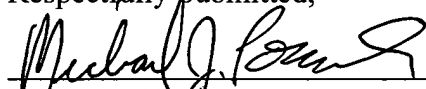
CONCLUSION

On the basis of the above remarks and amendments, it is believed that claims 1-21 are in condition for allowance. A notice to that effect is respectfully requested.

If, for any reason, the Examiner believes that a telephone conversation with Applicants' representative would expedite prosecution, the Examiner is invited to contact the undersigned at 617-720-3500.

Please charge any fee or fee deficiency occasioned by this amendment to Deposit Account No. 23/2825.

Respectfully Submitted,



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APPENDIX: MARKED-UP VERSION OF THE CLAIMS

21. **(AMENDED)** A method of forming a printed multicolored flocked pile fabric having a substrate and flocking formed of fibers, wherein the fibers are arranged in random groups extending uniformly across the entire width and along the length of the fabric, with each group comprising a random number of fibers extending at angles and in directions that randomly vary from the angles and the directions of fibers in adjacent groups, comprising the steps of:

processing greige goods to randomly reorient the fibers forming the flocked surface under conditions selected to minimize creasing of the fabric, wherein the processing comprises washing [uncompressed] greige goods at a temperature and time period sufficient to randomly reorient the fibers forming the flocked surface from a uniform parallel orientation into random groups of fibers with angular and directional orientations that vary from one group to the other; and thereafter

drying and printing the substrate with the fibers in said reoriented position.